

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Defendant.

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) CASE NO. 3:21-cv-00273-CSD
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) **SECOND UNOPPOSED MOTION**
) **FOR EXTENSION OF TIME TO FILE**
) **PLAINTIFF'S BRIEF**
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Counsel requests this extension of time due to a culmination of events which have caused such extraordinary circumstances that such extensions are warranted. As noted in the attached Declaration of Howard D. Olinsky, managing partner of Olinsky Law Group, after the initial shutdown related to the COVID-19 pandemic in March 2020, the Commissioner's capacity to produce Administrative Records fell from 300 Administrative Records a week to essentially zero for a large portion of 2020. As of January 2021, the Agency reported over 11,000 pending cases. After months of delay due to the Agency's inability to produce Administrative Records, the Agency expanded their out-of-office capacity to over 700 Administrative Records per week. As of mid-September 2021, the Agency reduced the number of pending cases to just 2,350, a

1 decrease of 8,650 cases in just over nine (9) months. In tandem with the decrease in production
2 of Administrative Records throughout 2020, the Appeals Council withheld claims containing,
3 inter alia, claims of constitutional violations under the Supreme Court's holding in *Seila Law*
4 *LLC v. Consumer Financial Protection Bureau*, 140 S. Ct. 2183 (June 29, 2020). As evidenced
5 in the attached Declaration, Olinsky Law Group went from receiving 65 Appeals Council denials
6 in October 2020 to just 25 Appeals Council denials in November and December of 2020.

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8 Subsequently in January 2021, the Agency released Emergency Message-21002, which directed
9 staff to flag claims in which the *Seila* issue was raised and to continue processing these claims
10 without discussing or making any finding regarding the *Seila* issue. As evidenced in the attached
11 Declaration, Olinsky Law Group then received 541 Appeals Council denials in January 2021;
12 1,127 Appeals Council denials in February 2021; and 358 Appeals Council denials in March
13 2021. Further, these numbers only represent internal Appeals Council denials received by the
14 Olinsky Law Group, who represents a significant number of additional clients who are referred
15 to this office by non-attorney representatives or unaffiliated attorneys.
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18 Olinsky Law Group filed 202 briefs in January 2022, and this figure does not include
19 Reply Briefs, Objections to Report and Recommendations, Responses to Motions, 59(e)
20 Responses, Oral Arguments, appeals to the Circuit Courts, EAJA petitions, Fee Litigation,
21 406(b) Petitions, and other miscellaneous tasks which arise throughout the course of litigation.
22 Currently, Olinsky Law Group has 165 briefs drafted or scheduled to be drafted in February
23 2022 and 154 already scheduled to be drafted in March 2022. Counsel asserts that the
24 culmination of these factors has created extraordinary circumstances due to the exigent
25 circumstances created by the COVID-19 pandemic and the Commissioner's response. As a
26 result, this has caused multiple, simultaneous filing deadlines that cannot be met by Plaintiff's
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1 Counsel. Wherefore, Plaintiff requests an extension from March 14, 2022 up to and including
2 April 13, 2022 to file her brief. Counsel for the Plaintiff has conferred with Defendant's Counsel
3 who kindly has no objection to this request. This is Plaintiff's second such request in this matter.
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5 Dated March 3, 2022.

6 Respectfully submitted,

7
8 /s/ Hal Taylor

9 Hal Taylor, Esq.

10 Of Counsel, Olinsky Law Group

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24 IT IS SO ORDERED.

25 DATED: March 3, 2022.

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28 UNITED STATES MAGISTRATE JUDGE